

MAY 13 2003

Federal Communications Commission
Office of the Secretary

Before The
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the matter of:)	MB Docket 02-376
)	RM-10617
Amendment of §73.202 of the Commission's)	(Sells, Arizona)
Rules - Table of Allotments for FM)	
Broadcast Stations.)	RM-10690
)	(Davis Monthan AFB, Phoenix
)	and Wilcox, Arizona)

COMMENTS OF REC NETWORKS

REC Networks ("REC") is a supporter of locally owned and diverse radio. REC currently operates several Internet only radio stations. REC also operates several websites including the original LPFM Channel Search Tool. REC Networks also represents the interests of independently owned Low Power FM ("LPFM") broadcast stations and their listeners. Since the above captioned proceeding will have an impact on the future of local radio in REC's area of interest¹, REC will review the proposal and provide the results of our research. REC has no plans to apply for the channel. REC should be considered an independent third party.

Now in the record is a counterproposal from Lakeshore Media LLC ("Lakeshore") to substitute Channel 285C3 at Davis-Monthan Air Force Base ("DMAFB") for Channel 285C2 at Willcox, Arizona. This change would also require a change of reference coordinates² for KZZP, Phoenix AZ on Channel 286C. For the reasons mentioned herein, REC opposes the proposed allotment.

1 - REC's "Area of Interest" include the entire states of Arizona and Nevada as well as the Southern California counties of Kern, Los Angeles, Inyo, San Bernardino, Ventura, Riverside, Orange, San Diego and Imperial.

2 - This proposal takes the KZZP reference point off the desirable South Mountain antenna farm and moves the transmitter to a location to ground level site near the transmitter site for KMVP, a directional AM station. Using hypothetical and line of sight methods, the new location would still be able to provide a city grade signal over the KZZP city of license. REC is concerned whether KZZP will be able to construct a tower at that location that would allow it to keep it as a Class C (vs. a Class C0). If KZZP is downgraded to Class C0, it would be able to keep a city grade signal over Mesa (based on full facilities) however listeners in portions of the current service area may experience a degraded signal.

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DMAFB does not meet the requirements as a "community" for allotment purposes.

In their counterproposal, the petitioner depends on several other cases including Edwards and Johannesburg, California³. REC points out that in Edwards, as well as Fort Lee, Virginia⁴ and Fort Rucker, Alabama⁵, these are first aural services going into communities that are considered communities by the US Census. DMAFB is not considered by the US Census Bureau as a community⁶. Unless there is an extenuating public interest aspect⁷ to the allotment, REC feels that a listing of the community in the Census as at minimum, a Census Designated Place, should be the bedrock when considering a community for allotment purposes. REC feels that a military base adjacent to an urbanized area that receives 13 city grade FM stations and 15 AM broadcast stations is not an extenuating circumstance to consider a community not listed in the Census for allotment purposes.

REC also feels that the petitioner's *Tuck*⁸ analysis of the DMAFB should not be entirely considered in this case. REC is concerned that point 2 (Newspapers and other media) does not address the availability of any *independent* media directed solely towards residents in the DMAFB area. REC feels that the publication of the *Desert Airman* is more of a newsletter published under the control of the Department of Defense and not an independent media source. Remember, the petitioner's counterproposed allotment *is* intended to be an independent media source not under direct control of the base commander. The independent media sources that would be considered under point 2 include *The Tucson Citizen*⁹ and *The Arizona Daily Star*¹⁰ daily newspapers, based in Tucson, an urbanized area.

3 - 15 FCC Rcd 15801 (2000).

4 - 11 FCC Rcd 5758 (1996).

5 - 5 FCC Rcd 37 (1990).

6 - Military bases that are not in the Census are usually associated with the surrounding community. In the case of Luke AFB, that community is Litchfield Park. In the case of DMAFB, it is Tucson.

7 - In REC's comments in Amboy, California (MB Docket 02-124), REC testified that even though Amboy is not listed in the Census as a designated place, the public interest aspects of the allotment (in a white area and along a major interstate highway that would otherwise not receive any broadcast radio service) far outweigh the fact that the lack of Census Designated Place. However, in Congress, Arizona (MM Docket 99-152) we opposed the allotment partially due to the fact that the community is not listed in the Census. In Mountainaire, Arizona (MM Docket 99-202) and Winona, Arizona (MM Docket 99-210), attempts to place stations in communities not listed in the US Census but adjacent to an Urbanized Area were denied.

8 - *Faye and Richard Tuck* 3 FCC Rcd 5374 (1988).

9 - www.tucsoncitizen.com

10 - www.azstarnet.com

If we compare that to Edwards AFB, California, we see that an independent media source is available. *Mojave Desert News*¹¹ covers and is circulated in the communities of Rosamond, Mojave, Tehachapi, Edwards, California City, North Edwards and Boron. None of which are in an urbanized area.

Edwards AFB is also served by its own telephone exchange¹² and rate center where DMAFB is a part of the Tucson Metropolitan Exchange and is served out of a central office¹³ that also covers civilian areas around the base.

Unfortunately, when it comes to proposals such as this one that involves making an attempt to consider a campus environment an independent community based solely on a *Tuck* showing, that opens the door for some very interesting precedence. I can make *Tuck* showings for university campuses and even large state prisons. However, I do not see the Commission giving first aural service to Arizona State University¹⁴, Arizona any time soon. This will also now mean that every Air Force Base, Naval Air Station and Marine Base is now fair game to have their name taken for commercial use by an entity that is not directly related to the facility.

Even though we do not wish this, but what would happen if DMAFB (or any other military installation that would be given an allotment based on this case law) was to close¹⁵? Would the Commission remove the allotment since it is no longer a "community"?

11 - www.desertnews.com

12 - Pacific Bell is the Incumbent Local Exchange Carrier (ILEC) for the Edwards, California exchange. Edwards is in such a remote location that customers in that exchange pay extra for Extended Local Calling Service (ELCS) to Lancaster. This local calling route existed prior to the divestiture of the Bell System and today, crosses a LATA line.

13 - At DMAFB, Qwest Communications is the ILEC. Telephone numbers given to personnel serving on the base come out of the Tucson "Craycroft" central office. Telephone customers who make calls to telephone numbers at DMAFB see "Tucson AZ" on their phone bills (whereas callers to Edwards AFB will see "Edwards CA" on their bills.)

14 - The ASU campus houses several thousand students who also work and go to school on campus and many people commute from the Phoenix urbanized area to the campus. The ASU campus has its own ZIP code and access to independent printed media. Students living on campus are forced to take telephone service from the University provided from their own central office. The ASU demographic is far diverse from the mainstream demographic from the rest of the Phoenix urbanized area thereby making an independent advertising market. The ASU campus provides restaurants, recreational, religious and social facilities as well as a library, banking and travel services. The FLASH bus system provides public transportation around the campus. ASU has its own police department and government activities are handled by the school administration and student government.

15 - After Lowry AFB in Colorado closed, the area was redeveloped residential and annexed into the City of Denver. There is no "community" of Lowry. In Arizona, Williams AFB was converted into a civilian airport and college campus. There is a Williams, AZ but it is over 200 miles away for the former Air Force Base.

Conclusion

We can understand that the petitioner wants to make their station more profitable. That is the American way. However, we do not feel that it should be done at the expense of the community of Willcox (who will have to now wait for a filing window and possibly an auction before another FM station can even construct) as well as those serving our country and stationed at DMAFB. REC feels that even though DMAFB may have their own (military) police and (military) fire departments, it lacks the independent media that other military communities currently have. Most importantly, the fact that DMAFB is not even considered a Census Designated Place should be enough to disqualify an area as a community for allotment purposes when no other extenuating circumstances exist.

For these reasons, REC Networks urges the Commission to **DENY** this Counterproposal and to grant Rural Pima Broadcasting's original petition as proposed.

Respectfully submitted,

/S/

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CERTIFICATE OF SERVICE

In the best interest of National Security, REC Networks is filing this pleading electronically with the Secretary in the designated Media Bureau electronic mailbox (mmbsecretary@fcc.gov) pursuant to Public Notice FCC 01-345.

In addition, a copy of this pleading will be filed electronically with the following:

Qualex International
FCC Duplication Contractor
qualexint@aol.com

A copy of this pleading will be sent via First Class mail to the parties in this proceeding:

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